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Date: December 11, 1995

-M-E-M-O-R-A-N-D-U-M-

ADDENDUM No. III

To: David E. Smith, Director of Appeals & Hearing Officer

From: Chester Osheyack

Re: Rulemaking hearing in Docket No. 951123-TP
Addendum to prefiled testimony dtd 12/1/95

COMMENTS IN SUMMATION

Certain telecommunications companies, in an effort to make a case for "disconnect authority", have attempted to intimidate the Commission and the public with veiled threats of higher long distance rates. In a free market, subject to competitive pressures, a supplier must be sensitive to public perceptions and to the actions of his competitors. Billing, collection, and customer service are part of the cost of doing business, and unless the competing companies are engaged in unlawful collusion to fix prices, those who attempt to raise toll rates without concern for market norms, will find that they are ceding market share to competitors. Therefore, threats of increases in toll rates to cover bad debt expenses are somewhat disingenuous. It is far more likely that the managers of a company which suffers revenue leakage in any area of business operations, will look to greater efficiency and tighter administrative controls before increasing prices.

Some telecommunications companies have supported assertions of a need for punitive bill collection measures with unsubstantiated allegations of rampant consumer fraud. It should be here noted that deliberate mischaracterization of what is a breach of civil or criminal law by misstating or omitting elements of the alleged transgressions to make an unrelated point, may be deemed to be libelous, if the accusations are leveled against named individuals. Insensitive charges directed at unnamed individuals or groups are no less onerous. If, in fact, there are exponential increases in bad debts, there may well be factors other than fraud involved. Some examples may be as follows:

(1) Unresolved disputes resulting from poor communication among the parties... ....a situation which might be caused by the confused chain of responsibility within the structure of "collection without inquiry" contracts between LECs and IXCs.
(2) Intensified competition in the long distance markets and the addition of new products and features for billing, increase the need for computer adjustments and the commensurate opportunity for billing errors.
(3) Population increase resulting in increased subscriber base and proportionate increases in delinquencies.
(4) Switching and slamming by rogue carriers which cause anxiety and conflict between the billing agent and the customer.
(5) Economic downturns, unexpected unemployment, or disabling illness which cause unplanned financial distress.
(6) Miscalculation of projections by corporate planners which sends them scurrying around to find scapegoats.

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COMMENTS IN SUMMATION (continued)

Both the telecommunications companies and the government share an obligation to promote consumer confidence by eliminating unfair and deceptive behavior, and ensuring a process by which the consumer is provided with adequate rights of redress. The emphasis in the dialogue among the consumer, the government and the supplier should lean toward dispute resolution rather than punishment. In the event of a dispute, the responsible carrier should be required to fully inform their customer of the basis for their contention and advise him in writing of his rights and available remedies. The carrier should also be required to respond fully and in a timely manner to the questions and concerns of the customer. It follows that in order to deal effectively with these issues, there must be a clearly identifiable chain of responsibility, a mechanism for ensuring accountability, and well defined sanctions for non-compliance on the part of the supplier. This may require institutionalization of government oversight in the interest of consumer protection.

Telecommunications companies should have the right to deny their services to customers for good cause, and good cause may well be defined as non-payment of legitimate debts. However, the "communications network" aka "information highway", belongs to the public and should never be artificially obstructed. This communications infrastructure has been built over the years with public financial assistance provided in the form of high rates, favorable depreciation rules, and guaranteed earnings. Thus, incoming calls, 1+800 calls, 0+COLLECT calls, third number billed calls and access to competitive suppliers should not be denied to anyone who has a telephone since they do not unfairly burden the carrier with a financial risk.

Basic local and emergency telephone service should not be denied to anyone who can present valid identification, a bona fide address of residence, and reasonable proof of the ability to pay for the service....and a telephone number, once assigned, should never be taken away so long as the customer continues to reside at the address of record under which it was granted.

For more than twelve (12) years, the Modified Final Judgement (MFJ), issued by the presiding federal court after the break-up of the national telephone monopoly in 1983, has been the governing influence in decisions of the courts and the regulators throughout the nation in matters bearing upon local and interexchange telephone companies with respect to their relationship with each other, with governments, and with their customers. However, the MFJ neither contemplated the advent of competition in the local markets, nor the vast changes which have occurred or are projected as a result of new or developing technology. Thus,the MFJ can no longer be relied upon as a valid legal precedent for future decisions. In fact, the telecommunications companies themselves have led the way in bringing the MFJ into conformity with current market conditions by successfully chall-

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COMMENTS IN SUMMATION (continued)

enging the MFJ in numerous recent court actions. There are also material changes in applicable federal law pending in the legislative pipeline, and notwithstanding some disagreement on priorities and scheduling, there appears to be unanimity of opinion in Congress on the fundemental objectives of de-regulation of the industry and protection of the consumer from predatory and abusive practices.

Legal research has revealed that the Florida Consumer Collection Practices ACT (FS 559.55) is consistant with the previously identified federal Fair Debt Collection Practices Act (Title VIII of the Consumer Protection Act). Further, we find that the Florida Statute Ch 559.552 provides that the federal law will prevail where there are inconsistancies or omissions in the state law. Accordingly, effective January 1, 1996, when monopoly status is withdrawn from the incumbent LECs, those which continue to exercise "disconnect authority" may be in a state of non-compliance with Title VIII of the federal Consumer Protection ACT, which precludes a "debt collector" from utilizing extreme or abusive non-judicial means for collection of a debt in which they do not have a real security interest.

With respect to the Joint Stipulation & Agreement of 1984, except for the subsequent approval of the Florida Public Service Commission, this "combination" of sixteen (16) local and interexchange companies would have been considered illegal under the provisions of federal anti-trust laws, and also under Florida Statute Ch 542.19 which states that entities which "combine" with others "to monopolize any part of trade or commerce in this State" are deemed to be in violation of the law. Here again, effective January 1, 1996, by enactment of the amendatory provisions of FS Ch 364 as expressed in CS/SB 1554, it would appear that lawful monopoly status is effectively withdrawn from incumbent LECs, thereby altering the regulatory framework in a manner designed to promote and encourage competition. Now, therefore, the signatories of the above noted "joint agreement" having been provided with sufficient notice by the enactment of the CS/SB 1554 on June 18, 1995, may be considered to be in a state of non-compliance, and even perhaps subject to penalties set forth in FS 542.21, unless the 1984 agreement is nullified.

Now I am not an attorney, nor am I qualified to render a legal opinion. I'm just an old man with a typewriter who, somewhere in his past life, learned how to read.....and what I have read leads me to believe that this entire proceeding should be submitted to the State Attorney General for an opinion. I believe that I have proffered ample testimony to raise questions as to the lack of a reasonable purpose to be served by the continuation of what is an abusive collection practice, and I believe that I have proffered sufficient legal references

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COMMENTS IN SUMMATION (continued)

to warrant action by those who are better qualified, and perhaps much wiser than myself.

The single thought that I would like to convey is that if government hopes to regain the confidence of the public, it must be sensitive to the need for adherance to its own laws.

ACCORDINGLY, IT IS INCUMBENT UPON THE COMMISSIONERS THAT THEY EXECUTE THE MANDATE OF THE FLORIDA LEGISLATURE AS EXPRESSED IN FLORIDA STATUTE (FS 1995) Ch 364 AS AMENDED BY THE ENACTMENT OF CS/SB 1554.

Respectfully submitted in the public interest by:

Chester Osheyack

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December 26, 1995

-M-E-M-O-R-A-N-D-U-M-

ADDENDUM No. IV

To: David E. Smith, Director of Appeals & Hearing Officer

From: Chester Osheyack

Re: Rulemaking hearing in Docket No. 951123-TP
Addendum to prefiled testimony dtd 12/1/95

Exhibits

Exhibit "A"

Ref pg 2 para 1 of initial filing

This exhibit is presented in support of statement ".....major long distance carriers are continuously increasing the number of subscribers on direct billing albeit on a selective basis."

Exhibit "B"

Re pg 5 para 3 of initial filing

This exhibit is presented in support of statement" "....Given the need.....we can have every confidence that American industry will.....develop(ing) technology.....that (will) minimize fraud and maximize revenues."

note: GTE has not only developed such technology, but has it in use where they are not protected by monopoly regulation. Moreover, GTE is selling their system for use by foreign telephone companies at substantial profit.

Respectfully submitted in the public interest by:

Chester Osheyack

EXHIBIT "A"

TIMES ■ WEDNESDAY, DECEMBER 6, 1995 * * * *

AT&T reaches out with own billing system

■ Most area AT&T consumers will get one long-distance bill from AT&T and a separate local phone bill from GTE.

By ROBERT TRIGAUX
Times Staff Writer

Telephone deregulation not only promises Floridians more choices next year but also more bills.

Long-distance giant AT&T Corp. said Tuesday it will start sending separate bills to most of its hundreds of thousands of Tampa Bay area residential customers who live in the GTE local telephone service area.

Long-distance companies typically contract with an area's local telephone service to provide customers with one bill that details both local and long-distance charges.

No more. Soon, most area AT&T consumers will get one long-distance bill from AT&T and a separate local phone bill from GTE.

AT&T, which plans eventually to offer local phone service and compete head-on with GTE and other local phone companies, said it wants the flexibility to reach its customers directly.

"When we introduce a new long-distance service, we have had to arrange billing with other companies and that can keep us from responding quickly," said AT&T spokeswoman Julie Spechler in Miami.

Come Jan. 1, state law will permit long-distance companies like AT&T and MCI, cable companies like Time Warner and others to begin offering local telephone services.

While it is unlikely new competitors will rush to compete with GTE early next year, companies are preparing the complicated process of entering local markets during the next three years.

AT&T declined specific comment on its strategy behind the move to direct billing.

In the Tampa Bay market, Spechler said most but not all of AT&T's residential customers will be directly billed. That decision will be based on the array of AT&T services a customer uses.

AT&T will notify customers one month before they start receiving bills directly.

AT&T also is rolling out direct billing in GTE service areas in Texas and California following successful tests with consumers in New Jersey and Minnesota.

At MCI, another long-distance provider, spokesman Mike Trigg said the company offers its customers the option of direct billing. But most MCI customers prefer to receive one bill from the local phone company, he said.

Sprint apparently has been sending its own long-distance bills in the GTE service area for some time.

At GTE, spokesman Jim Marzano in Tampa suggested that area consumers may be less than thrilled to receive two separate bills for their phone service.

"Consumers have long told us they prefer the convenience of one bill for their telecommunications services," Marzano said.

strained beyond their limits. The occasion for errors will be exceeded only by the sharp rise in consumer complaints. As the systems currently in operation will be unable to control this flow of events, so will the methods of handling consumer complaints suffer the consequences of these anticipated likelihoods. Against this background, regulators must be prepared to take on an added workload of consumer problems which will be an aftermath, albeit unintended, of this transition period. It is incumbent upon regulators to forsee the problems and adjust policies to meet expected needs. Reacting after the fact may lead to loss of control which could be a prelude to disaster.

The nascency of updated policy is the recognition of the inevitability of the need. The motivation for updated policy is the primacy of consumer protection as mandated by Florida Statutes as amended in 1995.

SUMMARY

If competition is to be effectively introduced into the telecommunication industry, it is an absolute necessity that any and all joint operations agreements between or among competing interests be subjected to intense government scrutiny as to their compliance with applicable law. Moreover, it is essential that consumer's rights and carrier obligations be reprioritized and brought into a new and more appropriate balance which is reflective of a competitive environment.

It is aphoristic, that if the LECs are permitted to retain even the vestiges of monopoly, such could provide a basis for unfairly restricting competition and the exercise of unreasonable control over prices, services and access for customers to competitors. The essence of competition is consumer choice which must be unencumbered. The right of LECs to bill and collect debts for competitors, including permission to purchase accounts receivable and utilize disconnect authority as a collection tactic, limits consumer choice.

ACCORDINGLY, IT IS INCUMBENT UPON THE COMMISSIONERS THAT THEY EXECUTE THE MANDATE OF FS 1995, Ch 364 AS AMENDED BY APPROVING THE RECOMMENDATION OF THE PSC STAFF.

Respectfully submitted in the public interest by:

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*

* Federal Communications Commission

Copy of letter of transmittal to accompany file of comments relative to distortion of Universal Telephone Service statistics in re Docket No 95-115

*

Enclosed find a memorandum which attempts to address the impact of "disconnect authority" on the marketplace.

While it has been the predisposition of the FPSC in the past to permit concerns about economic impact on the telcos to guide their decisions, it is important to point out that the principles of competition are best served if the telcos are required to adjust to the demands of the market rather than the reverse which is the nature of monopoly regulation. The current role of the government regulatory agency, in addition to consumer protection, is the maintenance of fair trade in a free market. The manner in which this is accomplished is by the implementation of the intents, purposes and mandates of the new telecommunications law.

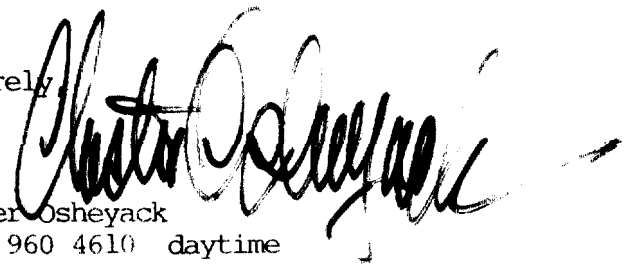
The so-called disconnect authority, which procedure enables the local exchange companies to block customer access to competitors is anti-competitive, and under the mandate of the new telecommunications law, it should be rescinded.

Furthermore, absent a clearly defined public interest, the "joint operating agreements" between local exchange companies and inter-exchange companies are in violation of federal and state anti-trust law, and as such should be nullified.

The impact on both of the above noted processes on the markets is antithetical to the stated legislative intent to promote competition and achieve universal basic local and emergency telephone service.

An important factor in the reform process that bears scrutiny is the bureaucratic culture bred as a consequence of more than ten-years of monopoly regulation. Given the nature of government bureaucracy, the motivation for retraining may well have to originate with the legislature. To ignore the need to help the PSC staff and management to understand and cope with the new competitive environment in the making, would be to render the legislative reform effort of 1995 to be ineffective.

Sincerely,



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July 25, 1995

M E M O R A N D U M

To: Federal Communications Commission in Docket No 95-115

From: Chet Osheyack

Subject: Figures lie and liars figure!

Periodically, the TIMES publishes statistics (aka trivia) in a column on the front page of the B-Section of the daily paper. One of the stats that has appeared from time to time is a report as follows:

Hillsborough Cty total households (est)	1.5 million
Hillsborough Cty households with telephones	92.7%
Hillsborough Cty households without telephones	7.3%

These figures purport to represent the degree of attainment of the universal service objective in the marketplace.

In a recent petition filed by GTE Florida for a Rule Variance (see Docket No. 930879-TL filed February 22, 1995), GTE Florida released the following relevant statistics:

> GTE Florida has terminated basic local telephone service to collect long distance (toll) bills at a rate of approximately 10,000 to 12,000 customers per month.
>
> GTE Florida contends that its collection rate on delinquent accounts is approximately 15% (presumeably irrespective of whether the non-payment is based in customer fraud, inability to pay, or unresolved disputes about billing errors).

If you extrapolate these numbers and extend the result to reflect a cumulative impact over a 5-year period, it would mean that in the GTE Florida territory, there could be as many as 600,000 (+ or -) households without telephones. Of course there are variables that should be considered, however, even if the final figure is cut in half, there would still be a substantial disparity between the estimates put forth by GTE Florida and the reality of the marketplace. It is apparent that GTE Florida does not consider households which have had basic local and emergency telephone service disconnected to collect long distance telephone bills, to be eligible for inclusion in the universal service statistics.

This information is significant for the following reasons:

If the market-based numbers are projectable to other local exchange company territories within the State of Florida, the resulting statistics could be staggering.

The new Florida telecommunications law (SB 1554 Ch 364.025 S (1), mandates the following: "For a period of 4-years after the effective date of this Section (sic 1/1/96), each local exchange company shall be required to furnish basic local exchange telecommunications service within a reasonable time period to any person requesting such service within the company's territory". The question that arises here is the definition of "any person" in the light of the fact that GTE Florida considers those "persons" who have had local and emergency telephone service disconnected to collect long distance telephone bills, to be "non-persons".

FCC Chairman, Reed Hundt, in a recent appearance before the US HR sub-committee conducting hearings on the subject of telecommunications reform, publicly denounced the practice of utilizing disconnect authority by LEC s to collect delinquent IXC bills as being, among other things, a significant source of distortion of universal service statistics.

This memorandum is submitted for the purpose of emphasizing the importance of preparing a proper base of statistical data for use in the implementation of the Florida Legislature's intent as expressed in SB 1554 Ch 364.01 (4) (a) to wit:

"The Commission (FPSC) shall exercise its exclusive juristiction in order to ...."Protect the public health, safety and welfare by ensuring that basic local telecommunications service is available to all consumers in the state at reasonable and affordable prices."

It would appear that there are important steps to be taken by both government and the local telephone service providers which relate directly to their inter-relationship even before consideration is given to the establishment of a universal service mechanism. Careful definition of terms and tagging or categorizing of consumers are two exceedingly important elements to be studied. Ancillary to the process of categorizing customers, the importance of addressing dispute resolution procedures must be considered to avoid mischaracterizations which may lead to unintended consequences.

Sincerely,

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